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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,125	04/26/2006	David Bromert	I-2003.017_US	1233

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Intervet/Schering-Plough Animal Health
PATENT DEPARTMENT
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EXAMINER

JACYNA, J CASIMER

ART UNIT	PAPER NUMBER
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3754

NOTIFICATION DATE	DELIVERY MODE
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04/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/577,125	Applicant(s) BROMERT ET AL.	
	Examiner J. Casimer Jacyna	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-16, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>042606</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-16, 21 and 22, drawn to a generic dosing system.

Group II, claim(s) 17-20, drawn to a process for dosing the feed of animals.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The group I system claim are generic to any dispensed fluid substance including the application of industrial adhesives, paints, chemicals or human beverages whereas the group II process claims are specific to dosing the feed of animals with a medicament wherein there is a lack of corresponding special technical features because of the disparity between the claimed inventions and because all of the independent claims can be rejected over the prior art of record as shown in the PCT search report issued 4/19/2005. Since all of the independent claims are currently rejected there is no allowable special technical feature unifying the claimed inventions.

3. During a telephone conversation with William M. Blackstone on 3/10/2009 a provisional election was made with traverse to prosecute the invention of group II, claims 17-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-16, 21 and 22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

Art Unit: 3754

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Topper et al. 5,553,756. Topper discloses a process for dosing viscous feed to a human animal that includes a medicament such as nutritional supplements as disclosed on column 2, lines 30-37, wherein it is well known in the art that nutritional supplements are often used to prevent nutrition deficiency diseases such as scurvy. The method of Topper includes a first portion 40, a second portion 86 with a pop on and off quick disconnect at 108, and a sealed quick disconnect at 94, and a third portion dose applicator 84, wherein viscous substance is withdrawn with 136 and dispensed into animal feed located at 31.

7. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Roberts 3,640,430. Roberts discloses a process for dosing viscous refrigerated dairy products to a human animal that includes a medicament such as vitamins as disclosed on column 21, lines 44-46, wherein it is well known in the art that vitamins are often used to prevent vitamin deficiency diseases such as scurvy. The method of Roberts includes a first portion 21, a second portion as is the hose attached to valve 42 which are provided with easily removed or quick connections for allowing the first portions 21 to be delivered, connected and disconnected from dispensing cabinet 20 as shown in figure

2, and a third portion dose applicator 22, 23, wherein viscous substance is withdrawn through 22 and dispensed into animal feed located at 27.

8. Claims 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Icking DE 42 38 499. Icking discloses a process for dosing viscous feed to swine that includes dosing a medicament including a first portion receptacle 17, a second portion quick disconnect cap assembly 20, 11, that removably clamps to receptacle 17 as shown in the figures and is sealingly attached to the third portion dose applicator 2, 6, 9, wherein the viscous substance in 17 is withdrawn with the movement of 2 and dispensed into animal feed located at 4a, 4b.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts 3,640,430 in view of Braun et al. 6,161,578. Roberts discloses a process for dosing viscous refrigerated dairy products to a human animal that includes a medicament such as vitamins as disclosed on column 21, lines 44-46, wherein it is well known in the art that vitamins are often used to prevent vitamin deficiency diseases such as scurvy. The method of Roberts includes a first portion 21, a second portion as is the hose attached to valve 42 and a third portion dose applicator 22, 23, wherein viscous substance is withdrawn through 22 and dispensed into animal feed located at 27 with the second portion having easily removed or quick connections for allowing the

first portions 21 to be delivered, connected and disconnected from the dispensing cabinet 20 as shown in figure 2, substantially as claimed but does not disclose male and female disconnects on the hoses. However, Braun teaches another hose for use in dispensing processes having male and female valved quick disconnects 42, 44 for the purpose of ensuring that the substance does not drip or spill when connecting or disconnecting the reservoirs. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the process of Roberts with male and female valved quick disconnects as, for example, taught by Braun in order to ensure that the substance does not drip or spill when connecting or disconnecting the reservoirs.

11. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes, Jr. et al. 3,822,056 in view of Braun et al. 6,161,578. Hawes discloses a process for dosing viscous molasses as disclosed in the Abstract, viscous concentrates in barrels 62 including dispensing medicine to animal feed as disclosed on column 1, lines 8-18, wherein the method of Hawes includes a first portion 62, a second portion as are the tubes 60 that attach and detach from the removable barrel receptacles 62 and the wheeled removable third portion dose applicator 50, wherein viscous substance is withdrawn from 62 and dispensed into animal feed located at 10 with the second portion tubes 60 having removable connections for allowing the replacement of barrels 62 and the wheeled cart 50 substantially as claimed but does not disclose male and female disconnects on the tubes. However, Braun teaches another hose for use in dispensing processes having male and female valved quick disconnects 42, 44 for the purpose of

ensuring that the substance does not drip or spill when connecting or disconnecting the receptacles. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the process of Hawes with male and female valved quick disconnects as, for example, taught by Braun in order to ensure that the substance does not drip or spill when connecting or disconnecting the receptacles.

12. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes, Jr. et al. 3,822,056 in view of Braun et al. 6,161,578 as applied to claim 17 above and further in view of Theeuwes 3,977,404. Hawes discloses a process for dosing medicine into animals substantially as claimed including disconnecting and reconnecting the removable barrel receptacles 62 to tubes 60 but does not disclose the use of progesterone on swine. However, Theeuwes teaches another process for dosing medicine to animals that includes dispensing progesterone to swine as disclosed on column 13, lines 10-18, 55 and 56 for the purpose of specifically improving the health of swine. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further define the process of Hawes to dispense progesterone to swine as, for example, taught by Theeuwes in order to specifically improve the health of swine.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Icking DE 42 38 499 in view of Klette 2,824,546. Icking discloses a process for dosing medicine into swine feed substantially as claimed but does not disclose the use of progesterone. However, Klette teaches another process for dosing medicine to swine (see column 1, lines 29-31) that includes dispensing progesterone to swine as disclosed

Art Unit: 3754

on column 2, lines 40-42, for the purpose of fattening the swine. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further define the process of lcking to dispense progesterone to swine as, for example, taught by Klette in order to fatten the swine.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chubbuck teaches another process for dispensing medicament to swine feed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754